



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,803	04/06/2001	Efrain Torres	HILB / 720	6869

26875 7590 02/27/2007
WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

EXAMINER

GART, MATTHEW S

ART UNIT	PAPER NUMBER
----------	--------------

3625

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/827,803

Applicant(s)

TORRES ET AL.

Examiner

Matthew S. Gart

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/8/2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 8-29, 59, 61, 62, 65, 66 and 70-93 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-29, 59, 61, 62, 65, 66 and 70-93 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Prosecution History Summary

- Claims 5-7, 30-58, 60, 63-64 and 67-69 have been cancelled.
- Claims 1-4, 8-29, 59, 61-62, 65-66 and 70-93 are pending in the instant application.

Claim Objections

Claims 1-4 and 8-29 are objected for minor informalities. Claim 1, line 14 recites, "collectively accord the with the profile parameter that relates to the personal funerary..." There appears to be an extra "the" before the word "with." Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 59, 61-62 and 93 are rejected under 35 U.S.C. 101.

Referring to claims 59, 61-62 and 93. Claims to computer-related inventions that are clearly nonstatutory fall into the same general categories as nonstatutory claims in other arts, namely natural phenomena such as magnetism, and abstract ideas or laws of nature which constitute "descriptive material." Abstract ideas, Warmerdam, 33 F.3d at 1360, 31 USPQ2d at 1759, or the mere manipulation of abstract ideas, Schrader, 22 F.3d at 292-93, 30 USPQ2d at 1457-58, are not patentable. Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works and a compilation or mere arrangement of data. Both types of "descriptive material" are nonstatutory when claimed as descriptive material per se. Warmerdam, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function

Art Unit: 3625

of the descriptive material to be realized. Claims 59, 61-62 and 93 are merely directed to a computer program stored on a computer readable medium, however the stored program is not positively being executable by a computer (or equivalent structural device).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 8-29, 59, 61-62, 65-66 and 70-93 are rejected under 35 U.S.C.

103(a) as being unpatentable over Segal (Patent Application Publication 2001/0032093) in view of Barrott (Patent Application Publication 2002/0046046).

Referring to claim 1. Segal discloses a computer-implemented method for creating an online funeral plan, the method comprising:

- Generating a plurality of groupings of products and services each associated with a profile parameter that relates to at least one of a personal funerary preference (Segal: paragraph 0024);
- Receiving user input associated with a profile parameter of the plurality of profile parameters to obtain requested pricing information on a product or service offered by a selected funeral service provider among a plurality of funeral service providers (Segal: paragraph 0012 through 0013);
- Retrieving in response to the user input the requested pricing information by accessing a database storing pricing information associated with a grouping of products and services associated with the profile parameter and offered by the plurality of funeral service providers (Segal: paragraph 0035),

Art Unit: 3625

- Wherein the grouping of products and services are preselected to complement each other and complete aspects of funeral planning, and to individually and collectively accord with the profile parameter that relates to the personal funerary preference of the decedent (Segal: paragraph 0039, "5, "The consumer can choose between either a traditional funeral service or a cremation. Either choice will carry a list of options with a description of each option as explained above."),
- Wherein each funeral service provider is associated with a distinct set of products and services from the plurality of products and services, and wherein the database maintains pricing information for the set of products and services associated with each funeral service provider (Segal: paragraph 0035);
- Steering generation of the funeral plan according to the profile parameter that relates to the personal funerary preference of the decedent by prompting user selections from the grouping of products and services associated with the profile parameter (Segal: paragraph 0044); and
- Outputting the requested pricing information to the user (Segal: paragraph 0035).

Segal does not expressly disclose a computer-implemented method for creating an online funeral plan, the method comprising: generating a plurality of groupings of products and services each associated with a profile parameter that relates to at least one of a personal funerary preference and a lifestyle of a decedent. Barrott discloses a profile parameter that relates to a lifestyle of a decedent (Barrott paragraph 0101).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the method of Segal to have included the teachings of Barrott as discussed above in order to allow a funeral provider to inform families and friends about additional products not physically displayed on the showroom floor of a funeral home (Barrott: paragraph 0006).

Referring to claim 2. Segal further discloses a method comprising selecting a funeral service provider from the plurality of funeral service providers in response to the user input (Segal: paragraph 0036).

Referring to claim 3. Segal further discloses a method comprising selecting the funeral service provider from a plurality of funeral homes based on criteria chosen from the group consisting of: location, services, products, capacity, pricing information, appearance and reputation (Segal: paragraph 0035 through 0036).

Referring to claim 4. Segal further discloses a method comprising receiving user input from the user to select a collection of products and services to include in the funeral plan (Segal: paragraph 0032).

Referring to claim 8. Segal further discloses a method comprising processing funding of the funeral plan using a payment method selected from the group consisting of: an electronic debit, credit card, insurance, or trust fund (Segal: paragraph 0028).

Referring to claim 9. Segal further discloses a method wherein the steering of the generation of the funeral plan further comprises personalizing aspects of the funeral plan to reflect a religious, professional, personal, or ethnic desire of a deceased in accordance with the user profile parameter and in response to user input (Segal: paragraph 0044, "Referring to FIGS. 5, 7, 9 and 11, if the user chooses a traditional burial, the user is provided with options for securing a hearse and for buying a casket. Referring to FIGS. 6, 10 and 12, if the user chooses a cremation service, the user is presented with options for cremation providers as well as for purchasing urns. A priest, rabbi or other minister may also be selected to administer the services.").

Referring to claim 10. Segal further discloses a method comprising storing contact information of a family member, friend or associate of the user for notification of a decedent's death (Segal: paragraph 0037).

Referring to claim 11. Segal further discloses a method comprising electronically storing the funeral plan for later retrieval (Segal: paragraph 0022).

Referring to claim 12. Segal further discloses a method comprising initiating the electronic display of the funeral plan on a web site (Segal: paragraph 0020).

Art Unit: 3625

Referring to claim 13. Segal further discloses a method comprising modifying the funeral plan in response to user input (Segal: paragraph 0038).

Referring to claim 14. Segal further discloses a method comprising directing user input to a web site, and communicating the pricing information for a products or service to the user via the web site, wherein the pricing information is retrieved from the database (Segal: paragraph 0035 through 0036).

Referring to claim 15. Segal further discloses a method wherein the pricing of a product or service is guaranteed, the method further comprising initiating a display to the user of an electronic image or text representing terms of the guarantee (Segal: paragraph 0039).

Referring to claim 16. Segal further discloses a method comprising initiating the display of an image representative of the product or service to a user (Segal: Fig. 7, "Floral Catalog w/ thumbnails").

Referring to claim 17. Segal further discloses a method comprising scheduling a meeting with a death care professional in response to user input (Segal: paragraph 0027).

Referring to claim 18. Segal further discloses a method comprising initiating the display of contact information to the user enabling personal or electronic communication with the death care professional (Segal: paragraph 0027).

Referring to claim 19. Segal further discloses a method comprising retrieving an estimated cost from the database for a non-guaranteed item. (Segal: paragraph 0039).

Referring to claim 20. Segal further discloses a method wherein the non-guaranteed item is selected from the group consisting of: a floral arrangement, musical performance, clergy, transportation and honorarium costs. (Segal: paragraph 0039).

Referring to claim 21. Segal further discloses a method comprising storing a currency value indicative of client funds that are budgeted to pay for the non-guaranteed item (Segal: paragraph 0039).

Referring to claim 22. Segal further discloses a method comprising storing information related to donations (Segal: paragraph 0037).

Referring to claim 23. Segal further discloses a method comprising initiating the display of a payment status of the funeral plan to the user (Segal: paragraph 0039).

Referring to claim 24. Segal further discloses a method wherein the pricing information includes bids from at least a subset of the plurality of funeral service providers (Segal: paragraph 0035).

Referring to claim 25. Segal further discloses a method comprising relating an offer for the product or service from the user to at least a subset of the plurality of funeral service providers, wherein the offer includes a price range (Segal: paragraph 0034 through paragraph 0035).

Referring to claim 26. Segal further discloses a method comprising associating and recommending to the user a complementary item from the plurality of products and services in response to the user selecting the product or service (Segal: paragraph 0032).

Referring to claim 27. Segal further discloses a method comprising initiating the display of educational information, counseling and Internet links related to the product or service (Segal: paragraph 0027).

Referring to claim 28. Segal further discloses a method comprising verifying the availability of the product or service from among the plurality of funeral service providers (Segal: paragraph 0027).

Referring to claim 29. Segal further discloses a method comprising encrypting user data and funeral plan information in conjunction with creating the funeral plan (Segal: Fig. 1).

Referring to claims 59 and 61-62. Claims 59 and 61-62 contain limitations similar to those as set forth above in claims 1-4 and 8-29. Claims 59 and 61-62 are rejected under the same rationale as set forth above in claims 1-4 and 8-29.

Referring to claims 65-66. Claims 65-66 contain limitations similar to those as set forth above in claims 1-4 and 8-29. Claims 65-66 are rejected under the same rationale as set forth above in claims 1-4 and 8-29.

Referring to claims 70-92. Claims 70-92 contain limitations similar to those as set forth above in claims 1-4 and 8-29. Claims 70-92 are rejected under the same rationale as set forth above in claims 1-4 and 8-29.

Referring to claim 93. Claim 93 contains limitations similar to those as set forth above in claims 1-4 and 8-29. Claim 93 is rejected under the same rationale as set forth above in claims 1-4 and 8-29.

Response to Arguments

Applicant's arguments with respect to the pending claim have been considered but are not persuasive.

The Attorney argues that Barrott does not disclose or suggest planning approaches specifically tailored to a profile/lifestyle interest of a user.

The Examiner notes, the specification as originally filed defines a lifestyle as a personal characteristic of the deceased (paragraph 0061).

Barrott discloses a method wherein a "Feature" field 173 can be selected to indicate a special feature of the funeral plan, such as an oversized casket. In this working example of Barrott, an oversized casket is chosen based on the lifestyle of the deceased, wherein an individual's size is a personal characteristic of the individual. Office personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. E-Pass Techs., Inc. v. 3Com Corp., 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted "in view of the specification" without importing limitations from the specification into the claims unnecessarily).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the method of Segal to have included the teachings of Barrott as discussed above in order to allow a funeral provider to inform

Art Unit: 3625

families and friends about additional products not physically displayed on the showroom floor of a funeral home (Barrott: paragraph 0006).

The Attorney further argues that the prior art does not disclose steering according to a parameter.

The Examiner notes, Segal discloses a method wherein if the user chooses a traditional burial, the user is steered towards options for securing a hearse and for buying a casket. If the user chooses a cremation service, the user is steered towards options for cremation providers as well as for purchasing urns (Segal: paragraph 0044).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew S. Gart whose telephone number is 571-272-3955. The examiner can normally be reached on M-F, 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3625

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MSG
Primary Examiner
February 20, 2007


MATTHEW S. GART
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600